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**Community Relations
and Outreach Unit**



U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Ocean Service
Office of Resource Conservation and Assessment
Damage Assessment Center, Alaska & Pacific NW Region
7600 Sand Point Way NE, Bldg 1
Seattle, Washington 98115-0070

October 14, 2000

Cindy Colgate
Community Involvement Coordinator
U.S. Environmental Protection Agency
1200 Sixth Avenue
Seattle, WA 98101



Subject: NOAA Comments on the Public Review Draft, Lower Duwamish Waterway
RI/FS Statement of Work and Administrative Order on Consent, and
Recommendation for NPL Listing

Dear Ms. Colgate:

Thank you for the opportunity to provide comments on the subject draft document and the overall framework for investigation and cleanup of the Lower Duwamish Waterway. NOAA previously commented on a prior draft version of the SOW on May 3, 2000. NOAA also provided a verbal statement for the record at the Lower Duwamish Waterway public meeting conducted by EPA and Ecology on August 16, 2000.

NPL Listing

NOAA recommends that EPA propose the Lower Duwamish River for inclusion in the Superfund National Priorities List, for reasons described in past correspondence and in our statement at the August 16, 2000 public meeting. We recently noted that the Governor of Washington has provided his concurrence on the EPA Region 10 proposal for NPL listing. In order for the rights of the Natural Resource Trustees to be preserved, which the AOC and SOW alone do not do, it is imperative that the site be listed, or at least proposed for listing, before the AOC is signed by EPA and Ecology.

Communication and Coordination between Agencies

Pursuant to the 1992 Memorandum of Understanding between NOAA and EPA under OSWER Directive 9295.0-02, and sections 104(b)(2) and 122(j)(1) of CERCLA, it is crucial that EPA and Ecology actively involve NOAA and the other Trustees in a timely fashion as the RI/FS and clean up process moves forward.

Statement of Work (SOW) and Administrative Order on Consent (AOC)

With regard to the SOW, we note and appreciate that many of the suggested changes we provided in our comment letter on May 3, 2000 have been incorporated into the current draft of the SOW. However, certain significant points remain to be addressed. Those points and recommendations for addressing them are found below.

It is also important to note that by its nature, the SOW is limited in its degree of specificity. It is critical that NOAA and the other Trustees have an opportunity to provide ongoing timely input to technical documents as the RI/FS process proceeds, to assure that the specific methods being proposed to study and evaluate risks to resources are sufficient for our evaluation needs.

Since only EPA and Ecology are defined as "the agencies" in the SOW and AOC, we presume that the SOW and AOC do not in themselves envision or define a role for NOAA or other Natural Resource Trustees. NOAA continues to urge that a process for expeditious coordination between the regulatory agencies, the Lower Duwamish Group, and the Trustees, be developed. This will foster the goal of an expedited investigation and cleanup with the exchange of information prior to commitment of extensive resources. The Trustees anticipate providing a draft cooperative management agreement to EPA and Ecology for consideration before the end of the year.

We should also note for the record that the data gathering and analysis described in the draft SOW have not been designed with the data needs of a natural resource damage assessment in mind.

Project Scope

The AOC and SOW still do not clearly state that the geographic extent of the site is not limited to the sediments of the lower Duwamish River. The RI/FS should be comprehensive enough to evaluate the extent of contamination and the probable sources.

NOAA recognizes that at the agencies' discretion, authorities other than CERCLA may be applied to address certain upland sources of contamination to the study area, and that in the Duwamish corridor, there are other authorities already being applied by several agencies undertaking regulatory and cleanup actions. To assure that a comprehensive conceptual understanding of the Lower Duwamish Waterway site is developed for the purposes of the CERCLA investigation, NOAA recommends that the SOW require that the following tasks be performed during the Phase I RI:

- Compilation of existing contaminant source data (already identified in the 11th bullet on page 3 of the SOW);
- Identification of the mechanisms and prospective timeframes under which some of these sources are currently being addressed; and
- Identification of remaining data gaps in the presence of potential sources and gaps in addressing potential sources of contamination to the Lower Duwamish River.

This information could then be utilized by the agencies to target source control/ cleanup actions that are not currently addressed or are inadequately addressed, under whichever authorities the agencies consider appropriate.

Endangered Species Act

NOAA wishes to reiterate that the baseline risk assessment must specifically address risk to endangered species, including chinook salmon and bull trout. While it may be possible to use a surrogate resident species in the screening-level ERA, it will ultimately be necessary to demonstrate in the ESA Biological Assessment for the final decision that the cleanup (or no-action decision) is protective of these species. Surrogate fish will not be accepted for this purpose.

NOAA appreciates the opportunity to provide comments and participate in this process, and we look forward to these issues being adequately addressed. If you have questions on any of the above comments, please contact me at (650) 329-5048.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Baker", with a long horizontal flourish extending to the right.

Greg Baker
Ecologist

cc: Duwamish River Natural Resource Trustees